IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.R. No.3788 of 2007
Date of Decision:21.08.2007

Jarnail Singh

.....Petitioner

Vs.

Smt. Balbir Kaur and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Vivek Singla, Advocate for the petitioner.

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In the present revision petition, the challenge is to the order dated 9.3.2007 passed by District Judge, Chandigarh dismissing the application filed under Order 9 Rule 3 read with Section 151 of the Code of Civil Procedure for restoration of the application under Section 5 of the Limitation Act, which was dismissed in default on 2.6.2006.

The petitioner had filed an appeal against the judgment and decree of the trial Court. The appeal was delayed, accordingly, he filed an application under Section 5 of the Limitation Act for condonation of delay of 25 days. On 2.6.2006, the District Judge passed the following order:-

> "Application u/s 5 of the Limitation Act has been called several times during the day. None has appeared for the appellant. It is 2.05 PM. Application u/s 5 of the Limitation Act is dismissed in default. Lower court record be returned and appeal file be consigned to the record room."

After disposal of the application for condonation of delay in default, the petitioner filed an application under Order 9 Rule 3 read with Section 151 for restoration thereof, the restoration application itself was time barred. Accordingly, considering the averments made in the application, learned District Judge dismissed the application for restoration as the petitioner- appellant was not able to justify the delay in filing of the application. In spite of adjournments, learned counsel for the petitioner has not been able to substantiate any plea raised by him in the petition. From

the facts of the case, it is evident that the petitioner is only interested in delaying the process of the Court. Accordingly, I do not find any merit in the petition and the same is dismissed.

August 21, 2007 **(RAJESH BINDAL)**
renu **JUDGE**